

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)	
Forrester, Michelle Constantine)	Case No. <u>16-04402</u>
)	Chapter: <u>13</u>
)	
)	NOTICE OF MOTION/
Debtor.)	APPLICATION AND
)	OPPORTUNITY FOR HEARING

TAKE NOTICE that Michelle Constantine Forrester filed a MOTION FOR MORATORIUM OF PAYMENTS UNDER CHAPTER 13 PLAN.

TO: THE FOLLOWING CREDITORS: All Creditors.

A copy of the motion and proposed order (Motion/Application) accompanies this notice.

TAKE FURTHER NOTICE that any response, return and/or objection to the motion, should be filed with the Clerk of the Bankruptcy Court no later than twenty one (21) days from service of motion and a copy of the simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this motion or application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on June 21, 2017 at 9:00a.m., at United States Bankruptcy Court, 145 King St., Room 225, Charleston, SC 29401. No further notice of this hearing will be given.

Date this 5th day of May, 2017

/s/ Heather S. Bailey
Heather S. Bailey
Moss & Associates, Attorneys, P.A.
D.C. ID# 11592
2170 Ashley Phosphate Rd., Ste. 405
North Charleston, SC 29406
(843) 744-3002

Address of Court:
United States Bankruptcy Court
145 King Street, Room 225
Charleston, SC 29401

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:
Forrester, Michelle Constantine

Debtor.

C/A No. 16-04402

Chapter: 13

MOTION FOR MORATORIUM UNDER CHAPTER 13 PLAN

COMES NOW, Michelle Constantine Forrester (“Debtor”), by and through her undersigned counsel, and file this Motion for Moratorium of Payments under Chapter 13 Plan (“Moratorium Motion”), which requests a moratorium of plan payments for a period of three months, to include April, May and June 2017. The Debtor proposes to resume her regular monthly payment of \$629.00 in July 2017. Debtor will be responsible for making sure that the full amount is paid, as debtor will resume payments directly to the Chapter 13 trustee.

Debtor filed for Chapter 13 relief under the Bankruptcy Code on August 30, 2016. Debtor’s Chapter 13 Plan (“Plan”) has not yet been confirmed. Debtor’s Plan requires for monthly payments of \$590.00 per month for three (3) months, for monthly payments of \$525.00 per month for three (3) months, and for monthly payments of \$629.00 per month for fifty-one (51) months.

A Motion for Moratorium is judged as a motion to modify the confirmed Chapter 13 plan pursuant to 11 U.S.C. § 1329.¹ See In re Wilson, C/A No. 96-75601-W, slip op. at 2 (Bankr. D.S.C. May 20, 1997). The Court issued In re Wilson to provide the Chapter 13 Bar with guidance concerning the requirements of a Motion for Moratorium of Payments under a

¹ Further references to the United States Bankruptcy Code, 11 U.S.C. § 101 *et. seq.*, shall be by section number only.

Chapter 13 Plan. In re Wilson, slip op. at 1. The party moving to modify a confirmed Chapter 13 plan has the burden of showing an unanticipated, substantial change in circumstances warrants modification of the plan. In re Wilson, slip op. at 4. Such a substantial change in circumstances may be a change in the debtor's financial condition after confirmation. In re Wilson, slip op. at 3-4 (quoting Arnold v. Weast (In re Arnold), 869 F.2d 240, 241 (4th Cir. 1989)). In order to satisfy the burden required for a motion to modify a confirmed Chapter 13 plan to defer payments for a period of time, a debtor must demonstrate a substantial change in circumstances and demonstrate that the plan satisfies § 1322(b), § 1322(c), § 1325(a), and § 1329(c). Id. at 4. In In re Wilson, the Court explained the following facts that a debtor must allege in order to meet this burden:

the number of months for which the debtor proposes to defer payments to the trustee; a good faith reason why modification of the plan is necessary; an explanation as to why the needed deferral of payments does not render the plan unfeasible; an explanation as to how the debtor will be able to resume the payments to the trustee at the end of the period during which payments are deferred; a statement of the number of payments which have come due to the trustee under the plan as of the filing of the motion; and a statement of the total number of months the confirmed plan is to run and whether the granting of the modification will cause the plan to exceed the plan term limit set forth in § 1329(c).

In re Wilson, slip op. at 5.

Debtor proposes to defer her Plan payments for a period of three months. Debtor proposes this plan modification in good faith as she experienced a temporary change in her monthly income subsequent to her Plan's filing. Due to unforeseen circumstances, the Debtor is no longer employed by Cumulus Media. Debtor turned to real estate, which fluctuates in income until securely established. Debtor had her first closing in March 2017, and has provided a profit and loss for the next 6 months to show anticipated income. Debtor is adamant on successfully completing her Chapter 13 bankruptcy case which is dependent on Debtor's

confirmation. In addition to this Moratorium, Debtor proposes to pay her delinquent amount of \$114.00 the week of May 08, 2017. Furthermore, Debtor will amend schedules I and J to reflect her new employer. Debtor is asking for time to regroup her financial situation so that she may become current on her trustee payments. Debtor apologizes deeply for any inconvenience this may have caused. As such, not granting a moratorium based on the Debtor's hardship would be detrimental for the Debtor to have a successful reorganization. Based on the foregoing, the Debtor moves for a three-month moratorium on payments due under her Chapter 13 plan.

Debtor's Plan, which includes the three month moratorium, will not exceed the plan term limit set forth in § 1329(c), as "the five year limitation period imposed by § 1329(c) does not commence on the date that the first payment is due but rather on the date that the first payment after confirmation is due." In re Stroud, C/A No. 07-04502-jw, slip op. at 2 (Bankr. D.S.C. March 5, 2008)(citations omitted). Debtor has made six (6) payments prior to this time. Thus, tacking on three monthly payments to the end of Debtor's Plan will not result in the Plan exceeding the plan term limit of § 1329(c).

WHEREFORE, Debtor moves this Court for an Order granting Debtor's Moratorium Motion or for whatever relief the Court deems just and appropriate.

Respectfully submitted.

Moss & Associates Attorneys, P.A.

By: /s/ Heather S. Bailey
Heather S. Bailey, Esq.
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2170 Ashley Phosphate Rd, Ste 405
N Charleston, SC 29406
(843) 744-3002
Attorney for the Debtor

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In Re:)	
Forrester, Michelle Constantine)	Case No. <u>16-04402</u>
)	
)	
)	Chapter: <u>13</u>
Debtor.)	
_____)	

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE PROPERLY SERVED
THE FOREGOING MOTION FOR MORATORIUM TO THE FOLLOWING CREDITORS
VIA REGULAR MAIL, POSTAGE PREPAID:

James M. Wyman, Chapter 13 Trustee (CM/ECF)
See Attached List

Date: May 5, 2017

/s/ Inna Kirpachova
Bankruptcy Paralegal
Moss & Associates Attorneys, P.A.
2170 Ashley Phosphate Rd. Ste 405
North Charleston, SC 29406
(843) 744-3002

Label Matrix for local noticing
0420-2
Case 16-04402-jw
District of South Carolina
Charleston
Fri May 5 11:45:47 EDT 2017

J. Bratton Davis United States
Bankruptcy Courthouse
1100 Laurel Street
Columbia, SC 29201-2423

AARGON COLLECTIONS
8668 SPRING MOUNTAIN ROAD
Las Vegas NV 89117-4132

ATTORNEY GENERAL OF UNITED STATES
950 PENNSYLVANIA AVENUE, NW
Washington DC 20530-0009

Ashley Funding Services, LLC its successors
assigns as assignee of Syndicated
Office Systems, Inc.
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

BERKELEY COUNTY CLERK OF COURT
PO BOX 219
Moncks Corner SC 29461-0219

BERKELEY COUNTY TAX COLLECTOR
P.O. BOX 6122
MONCK'S CORNER, SC 29461-6120

BERKELEY COUNTY TREASURER
PO BOX 6122
Moncks Corner SC 29461-6120

CALIBER HOME LOANS
PO BOX 619063
Dallas TX 75261-9063

Directv, LLC
by American InfoSource LP as agent
PO Box 5008
Carol Stream, IL 60197-5008

EAST COOPER MEDICAL CENTER
PO BOX 66044
Anaheim CA 92816-6044

IRS
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Philadelphia PA 19101-7346

KROSS, LIEBERMAN & STONE
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LOWCOUNTRY PATHOLOGY ASSOC
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Greenville NC 27835-0876

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Las Vegas NV 89117-4132

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Charleston SC 29406-6027

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PO BOX 3000
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Goose Creek SC 29445-3082

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P.O. Box 10063
Birmingham, AL 35202-0063

(p)REPUBLIC FINANCE LLC
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HAMMOND LA 70403-5464

SC DEPT OF REVENUE
PO BOX 12265
Columbia SC 29211-2265

SCA COLLECTIONS
PO BOX 876
Greenville NC 27835-0876

SCOTT AND CORLEY
PO BOX 2065
Columbia SC 29202-2065

STRATFORD CAREER INSTITUTE
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Archbald PA 18403-1961

(p)TMX FINANCE LLC FORMERLY TITLEMAX
15 BULL STREET
SUITE 200
SAVANNAH GA 31401-2686

TRIDENT ANESTHESIA GROUP
PO BOX 20790
Columbus OH 43220-0790

TRIDENT EMERGENCY PHYSICIANS
PO BOX 64378
Saint Paul MN 55164-0378

U.S. Bank Trust, N.A., as Trustee for VOLT 2
Caliber Home Loans, Inc.
13801 Wireless Way
Oklahoma City, OK 73134-2500

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US Department of Education
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Michelle Constantine Forrester
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Hanahan, SC 29410-4766

US Trustee's Office
Strom Thurmond Federal Building
1835 Assembly Street
Suite 953
Columbia, SC 29201-2448

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Republic Finance LLC
1140 Roma Ave
Hammond, LA 70403

TITLEMAX
1738 SAVANNAH HWY
Charleston SC 29407

(d)TitleMax of South Carolina, Inc. d/b/a Tit
15 Bull Street, Suite 200
Savannah, GA 31401

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)U.S. Bank Trust, N.A.

End of Label Matrix	
Mailable recipients	36
Bypassed recipients	1
Total	37